Toffoloni v. LFP Publishing Group, LLC Doc. 73 Att. 10

# IN THE UNITED STATES DISTRICT COURT
# FOR THE NORTHERN DISTRICT OF GEORGIA

| | | |
|---|---|---|
| **MAUREEN TOFFOLONI,**<br>as Administrator and Personal<br>Representative of the ESTATE<br>OF NANCY E. BENOIT,<br><br>Plaintiff,<br><br>vs.<br><br>**LFP PUBLISHING GROUP, LLC,**<br>d/b/a Hustler Magazine, et al,<br><br>Defendant. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | CASE NO. 1:08-cv-00421-TWT |

## BRIEF IN SUPPORT OF DEFENDANT'S MOTION FOR PROTECTIVE ORDER

EXHIBIT I

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# DECKER, HALLMAN, BARBER & BRIGGS

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

RICHARD P. DECKER*

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January 16, 2008

Mr. Sean Berries
Custodian of Records
LFP Internet Group, LLC
LFP Video Group, LLC
8484 Wilshire Blvd.
Beverly Hills, CA 90211

Mr. David Carillo
Custodian of Records
LFP Publishing Group, LLC
8484 Wilshire Blvd.
Beverly Hills, CA 90211

Re: Nancy Toffoloni Benoit

Gentlemen:

This firm represents Maureen Toffoloni, the Administrator of the Estate of Nancy Toffoloni Benoit, who died in June of 2007.

It has come to our attention that your website, Hustler magazine, or a related publication or entity intends to publish nude or partially nude photographs of Nancy Benoit. These photographs were apparently made years ago, under suspicious circumstances, leading us to question the legal propriety of same.

The purpose of this letter is to advise you of our client's strenuous objection to your publication of any photographs depicting the likeness of Nancy Benoit.

The estate of Nancy Benoit, represented by our client Maureen Toffoloni, would have legal title and any copyright to any likeness of Nancy Benoit. Your use of the likeness of Nancy Benoit in any form is expressly prohibited, unauthorized, and denied. *See* Martin Luther King, Jr. Center for Social Change, Inc. v. American Heritage Products, Inc., 250 Ga. 135 (1982).

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Please advise the undersigned within 10 days of this letter that the publications or entities you represent will refrain from the publication of any photographs or likenesses of Nancy Benoit. If we do not hear from you within 10 days, we will assume that you intend to go forward with publication of this material, and will file suit in a Georgia court to prevent it. *See* Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984).

Please be governed accordingly.

Yours very truly,

Richard P. Decker

For DECKER, HALLMAN, BARBER & BRIGGS

RPD:mla